

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF WASHINGTON

KAREN SINCLAIR, individually and  
as Guardian Ad Litem for K.S. and  
J.A., minor children, and JULIAN AL-  
GHAMDI,  
Plaintiffs,

vs.

CITY OF GRANDVIEW, a municipal  
corporation in the State of Washington;  
Detectives MICHAEL AKINS,  
Sergeant KAL FULLER, Officers  
JOHN ARRAJ, RICK ABARCA,  
MITCH FAIRCHILD, KEVIN  
GLASENAPP, TRAVIS SHEPHARD  
and SETH BAILEY; members of the  
Grandview Police Department; Sheriff  
Deputy ROBERT TUCKER, Yakima  
County Sheriff's Department; L.E.A.D.  
TASK FORCE OF YAKIMA  
COUNTY; supervisor ALBERT  
ESCALERA; Officer MARK  
NEGRETE of the Selah Police  
Department and THERESE MURPHY,  
former Yakima County Prosecutor

Defendants.

NO. CV-12-3041-RMP

ORDER GRANTING  
STIPULATED MOTION FOR  
PROTECTIVE ORDER

1 On November 2, 2012 Plaintiffs and Defendants, City of Grandview,  
2 Michael Akins, Kal Fuller, John Arraj, Rick Abarca, Mitch Fairchild, Kevin  
3 Glasenapp and Seth Bailey, by and through their attorneys, agreed and  
4 stipulated pursuant to FRCP 29, to a protective order regarding certain  
5 “Protected Documents.” Accordingly, **IT IS HEREBY ORDERED:**

6 1. The parties’ Stipulated Motion for Protective Order, **ECF No. 45**,  
7 is **GRANTED**.

8 2. Plaintiffs’ attorneys and Plaintiffs will not disclose or share any  
9 part of the “Protected Documents” described below or any information gleaned  
10 from said documents with any person, except as expressly provided herein.

11 3. The Protected Documents covered by the Stipulation and this  
12 Order of the court are described as follows:

13 a. All records contained in the personnel files and disciplinary  
14 files for Michael Akins, Kal Fuller, John Arraj, Rick Abarca, Mitch Fairchild,  
15 Kevin Glasenapp and Seth Bailey as may be disclosed by said Defendants to  
16 Plaintiffs pursuant to Plaintiffs First Requests for Production to City of  
17 Grandview;

18 b. All psychological, psychiatric or polygraph records for  
19 Michael Akins, Kal Fuller, John Arraj, Rick Abarca, Mitch Fairchild, Kevin  
20 Glasenapp and Seth Bailey as may be disclosed by said Defendants to Plaintiffs  
21 pursuant to Plaintiffs First Requests for Production to City of Grandview;

1           4.     Plaintiffs' attorneys agree that prior to any disclosure of Protected  
2 Documents as described in this Stipulation and the subsequent Order, they will  
3 obtain from each proposed recipient of the Protected Documents their signature  
4 on a copy of the Protective Order that states that the recipient has received a  
5 copy of the Protective Order regarding the Protected Documents and agrees to  
6 be bound by such order. By signing a copy of the Protective Order the  
7 recipient agrees that he or she has read the order, represents that he or she is a  
8 person permitted to have access to information from the Protected Documents  
9 and agrees that he or she will make no further disclosure of the information  
10 received, will personally protect the confidentiality of all copies and will either  
11 return them to Plaintiffs' attorneys at the conclusion of this case, or will at that  
12 time personally destroy them and upon request from Defendants will provide a  
13 sworn affidavit that he or she has done so.

14           5.     Subject to the terms of this Stipulation and subsequent Order,  
15 Plaintiffs' attorneys may allow inspection of Protected Documents or discuss  
16 the contents of Protected Documents or information therefrom with the  
17 following categories of persons and no other:

18               a.     The attorneys and members of the legal and support staff of  
19 Plaintiffs' attorneys' office;

20               b.     Experts, consultants or investigators retained by Plaintiffs'  
21 attorneys to assist in evaluation, preparation or testimony in this case;

1 c. Any court personnel, court reporter, mediator, judge and or  
2 jury in this case;

3 d. Any party or their designated representatives;

4 e. Any actual or potential witness who it is believed will give  
5 relevant testimony regarding the confidential materials;

6 f. Any person testifying at a deposition who is believed will  
7 give relevant testimony regarding the confidential materials; and

8 g. Any person identified as having authored or previously  
9 received the material.

10 6. If and only if a party seeks to use Confidential Material in a  
11 pleading the document(s) designated Confidential according to this Stipulated  
12 Protective Order and those portions of any pleading that refer directly or  
13 indirectly such Confidential Material shall be filed separately under seal when  
14 the pleading is filed. Any document(s) filed under seal pursuant to this  
15 paragraph, must be accompanied by a motion to seal the document(s). Should  
16 the Court deny the motion to seal, any party shall have the opportunity to move  
17 to strike the document from the record. Documents filed as sealed by a party  
18 cannot remain sealed without further order of the Court because there is a  
19 strong presumption in favor of public access to court documents. *See*  
20 *Kamakana v. City and County of Honolulu*, 447 F.3d 1172, 1178 (9th Cir.  
21 2006). Accordingly a party seeking to seal a judicial record must so move the

1 Court and bears the burden of overcoming the presumption. *Kamakana*, 447  
2 F.3d at 1178. In the case of documents filed in support of a dispositive motion,  
3 the “compelling reasons” standard applies, and “[t]he party must “articulate [ ]  
4 compelling reasons supported by specific factual findings... that outweigh the  
5 general history of access and the public policies favoring disclosure, such as  
6 the public interest in understanding the judicial process.” *Kamakana*, 447 F.3d  
7 at 1178-79 (internal quotation omitted). With regard to nondispositive  
8 motions, “a particularized showing under the good cause standard of Rule  
9 26(c) will suffice to warrant preserving the secrecy of sealed discovery  
10 material.” *Kamakana*, 447 F.3d at 1180 (internal citations and quotations  
11 omitted).

12 7. The Plaintiffs’ attorneys agree to use the Protected Documents or  
13 information obtained from them only for the purpose of prosecuting this  
14 litigation.

15 8. At the time of exchange of exhibit lists, the Plaintiffs shall list in  
16 the exhibit list for their case in chief any Protected Document they intend to  
17 use at the time of trial by designating the exhibit as a “PROTECTED  
18 DOCUMENT” in capital letters. The Defendants may request an in camera  
19 review of the exhibit and make the appropriate motion for the handling of the  
20 document at trial in accordance with the Jury Trial Scheduling Order.  
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1           9.     Nothing in the Protective Order shall limit any producing party's  
2 use of its own documents or shall prevent any producing party from disclosing  
3 its confidential information to any person.

4           10.    The court retains jurisdiction to make any amendments,  
5 modifications or additions to the Protective Order as it deems appropriate.

6           11.    The parties, by stipulation, may add additional documents to be  
7 covered by the Stipulation and subsequent Order signed by the court.

8           The District Court Clerk is directed to enter this Order and provide  
9 copies to counsel.

10          **DATED** this 14th day of December 2012.

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12                               s/ Rosanna Malouf Peterson  
13                               ROSANNA MALOUF PETERSON  
14                               Chief United States District Court Judge  
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